IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WP(Crl.).No. 281 OF 2007(S)

PETITIONER:

K.S.KOCHUMOHAMMED, S/O. SYED MUHAMMED,
RESIDING AT DEEPTHI, NEAR ULLOOR BRIDGE,
PATTOM P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.P.A.AHAMMED

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
HOME SECRETARY, GOVERNMENT SECRETARIAT,
TRIVANDRUM-1.

2. THE SUB INSPECTOR OF POLICE,
MEDICAL COLLEGE POLICE STATION, MEDICAL COLLEGE
P.O., THIRUVANANTHAPURAM.

3. SANTHOSH KUMAR, AGED 24 YEARS,
S/O. SURENDRAN, SUMA SADANAM, KULATHOOR P.O.,
THIRUVANANTHAPURAM.

4. SURENDRAN,
RESIDING AT SUMA SADANAM, KULATHOOR P.O.,
THIRUVANANTHAPURAM.

5. COMMISSIONER OF POLICE,
THIRUVANANTHAPURAM CITY, VAZHUTHACAUD P.O.,
THIRUVANANTHAPURAM.

GOVT. PLEADER SRI. C.M. KAMMAPPU.

R3 & R4 BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(CRL) 281/2007

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 25.11.2007.

EXT.P2 TRUE COPY OF THE COMPLAINT FILED BEFORE THE DIRECTOR GENERAL OF POLICE DATED 27.11.2007.

RESPONDENTS' EXHIBITS:

EXT.R3(a) TRUE COPY OF THE PETITION FILED BY SAJINA.

EXT.R3(b) TRUE COPY OF THE PETITION FILED BY THE 3RD RESPONDENT/SANTHOSHKUMAR.

EXT.R3(C) TRUE COPY OF THE PETITION FILED BY THE 4TH RESPONDENT/SURENDERAN.

// TRUE COPY //

P.S. TO JUDGE.

KNC/-

P.R. RAMAN & V. K. MOHANAN, JJ.

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W.P.(CRL) NO. 281 OF 2007

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DATED THIS, THE 6TH DAY OF DECEMBER, 2007.

J U D G M E N T

Raman, J.

Petitioner is an ISO Consultant and is working in Thiruvananthapuram. According to the petitioner, his eldest daughter Sajna who completed 18 years of age on 17.10.2007 was a student of P.A. Aziz College of Engineering, Thiruvananthapuram. On 24.11.200, she left the house with permission of her mother for shopping at Kesavadasapuram Junction in the afternoon; but thereafter, did not return home. The attempt to contact her over mobile phone did not succeed. According to him, his daughter is illegally detained by Respondents 3 and 4. The 3rd respondent is a sales representative in a lubricant company having an office near the petitioner's house at Ulloor, Thiruvananthapuram, who is also providing recharging facility for Airtel in his Office. Petitioner's daughter has an Airtel mobile phone and for recharge coupons she had contact with the third respondent, which developed into an intimacy. Alleging that the whereabouts of the petitioner's daughter are not known and that

Respondents 3 and 4 are not disclosing the same, a complaint was alleged before the second respondent, which did not yield any result. Hence he has approached this Court seeking to issue a writ of Habeas Corpus directing respondents 2 to 5 to produce his daughter Sajna before this Court and to set her liberty.

2. We issued notice to the parties. The alleged detenue Sajna, the third respondent, his parents and the petitioner appeared before us. We interacted with all the parties. Sajna told us that she attained majority on 17.10.2007, that she had gone on her own accord with the third respondent and that they are living as husband and wife. On request made by the petitioner, we arranged for a talk by the petitioner with his daughter for over an hour and thereafter also she stated that she is not under the illegal custody of Respondents 3 and 4. The third respondent undertook that the marriage under the Special Marriages Act will be performed as the parties belong to different religion, though according to him, a customary marriage has already been performed and now Sajna is his true wife. The parents of the boy also agreed to complete the legal formalities, if any, required under law to validate the marriage. These undertakings are recorded. The alleged detenue Sajna having stated that she is not under the illegal custody and she admits her relationship with the third respondent and

both of them are majors and have reached marriageable age, we find that she is not under the illegal custody of anybody.

Further more, it has to be noticed that based on the complaint made before the police, Sajna was produced before the Additional Chief Judicial Magistrate Court on 29.11.2007 and as per the orders of that court, she was allowed to go along with the third respondent. In such circumstances also, custody of Sajna with the third respondent cannot said to be illegal and she is set free.

In the circumstances, the writ petition is closed.

P.R. RAMAN,
(JUDGE)

V. K. MOHANAN,
(JUDGE)

knc/-